GOOD HEALTH IS GOOD BUSINESS

A landlord's guide to increasing revenue by adopting smoke-free policies

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For questions or comments, please call the Utah Department of Health's Tobacco Prevention and Control Program at 1-877-220-3466

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INTRODUCTION

A landlord's tool kit to adopting smoke-free policies

This guide encourages smoke-free policies in multi-unit housing. It has everything you need to ask questions of your tenants, write an addition to your lease that covers a smoke-free policy, and how to let your residents know about the policy. Once you have decided to go smoke-free, this guide can help you establish a time frame and help you put the new policy into action.

Secondhand smoke caused by neighbors can be a nuisance and be harmful to residents who live in your apartment or condominium community. State and local health departments often receive calls from residents who are bothered by secondhand smoke drifting into their unit. Secondhand smoke from one unit can seep through cracks or travel through a shared ventilation system and enter into another person's living space. As a landlord, this creates problems in dealing with related tenant conflicts and tension.

Smoke-free policies can help property managers and owners protect their residents from the dangers of exposure to secondhand smoke and protect the investment in the buildings. Much like smoke-free policies in worksites and other places where the public has access, establishing a smoke-free policy does not ban someone who smokes from living there, it just requires that all residents abide by the policy while on the property.

Smoke-free policies are becoming the norm for multi-unit housing in the United States. There is no federal law or state law that prohibits an owner from implementing a smoke-free policy for their buildings or premises. In Utah, the Second Hand Smoke Amendments establish secondhand smoke as a nuisance under the law and give authority for apartment rental contracts to include prohibitions on smoking in units, on the premises, or both.

The Utah Statewide Smoke-Free Housing Directory lists rental properties that have adopted a smoke-free policy. This listing is provided as a free service for property managers and owners who wish to list their smoke-free buildings. State and local health departments use the directory when people ask them where they can find smoke-free housing.

> "Making the change to a smoke-free building has given us a great opportunity to positively impact our residents' health and we are so pleased to be able to offer smoke-free living to all of our tenants!"
>
> *—Katie Edwards, Project Director for Golden Links Manor*

SECONDHAND SMOKE FACTS

Many people know that secondhand smoke is harmful to your health —but just how bad is it?

Secondhand smoke (SHS) comes from lit cigarettes. It is also the smoke that comes out of a smoker's mouth. SHS has thousands of chemicals.[1] SHS can cause cancer, heart disease, and many other health problems.[2]

Secondhand Smoke is Dangerous to Your Health:

- There is no safe level of SHS exposure. Even brief exposure can be dangerous.[2]
- SHS contains over 4,000 chemicals. More than 50 of those chemicals are known to cause cancer.[1]
- SHS can cause deadly lung cancer in people who do not smoke.[2]
- Living with a smoker gives you a 20–30 percent higher chance of getting lung cancer.[2]
- 3,000 Americans die every year from lung cancer caused by breathing SHS. [2]
- Being around SHS increases the risk of heart disease among nonsmokers by 25–30 percent.[2]
- 46,000 Americans die each year from heart disease caused by SHS. [2]
- SHS can affect nonsmokers by causing eye irritation, headaches, nausea, and dizziness.[3, 4]
- 430 American newborns die each year from Sudden Infant Death Syndrome (SIDS) caused by SHS.[2]
- SHS causes ear problems, acute respiratory infections, and wheeze illnesses in children, which slow their lung growth and make asthma more severe.[2]

Secondhand smoke in Utah:

- More than 93 percent of Utahns have set rules against smoking in their home.[6, 7]
- Ninety-eight percent of Utah children live in smoke-free homes, but nearly 14,800 Utah children still breathe SHS in their homes.[5, 6, 7]

Secondhand Smoke in Homes and Asthma in Utah

Key Facts

Asthma is a chronic lung disease that can make it hard to breathe. Asthma symptoms can include coughing, shortness of breath, and chest tightness. For those with asthma, exposure to triggers like tobacco smoke can cause asthma symptoms or a full-blown asthma attack. Severe asthma attacks may result in a visit to the emergency room or hospitalization.

- 8.6 percent of adults (about 167,000 adults) in Utah have asthma.[8]
- 6.9 percent of children (about 61,000 children) in Utah have asthma.[8]

SHS is especially harmful to those with asthma because it can trigger an asthma attack.[9] It is one of the most common asthma triggers and causes more frequent and severe asthma attacks in children. There is no safe level of exposure to SHS. The only way to fully protect those with asthma from exposure to SHS is to stop people from smoking indoors.

In Utah

- Renters have a higher prevalence of asthma than the general population: 10.7 percent of adult renters have asthma versus 8.6 percent of adult nonrenters.[8]
- A high school student with asthma who lives with someone who smokes is 2.3 times more likely to miss school than a high school student with asthma who does not live with a smoker.[10]
- A middle school student with asthma who lives with someone who smokes is 1.2 times more likely to miss school than a high school student with asthma who does not live with a smoker.[10]

For more information, visit www.health.utah.gov/asthma

> "The main reason for the decision to become smoke-free communities is for the health of our tenants."
>
> *—Sandy Aldrich, Occupancy Director, Danville Development Corporation*

INDOOR AIR QUALITY

Secondhand smoke can't be controlled by ventilation and air purifiers

Consider these facts:

- Commercial air filtering systems are designed to take away the smell, but not the health risks from secondhand smoke.
- Shared ventilation systems can cause tobacco smoke to blow from one room into another.
- Secondhand smoke can seep in and out of open windows and doors.
- Secondhand smoke stays in a room even after the smoking has stopped.

The 2006 U.S. Surgeon General's Report says that the only way to fully protect nonsmokers from exposure to secondhand smoke indoors is to stop people from smoking indoors. The report says all exposure to SHS carries risk. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot keep nonsmokers from being exposed to SHS.[11]

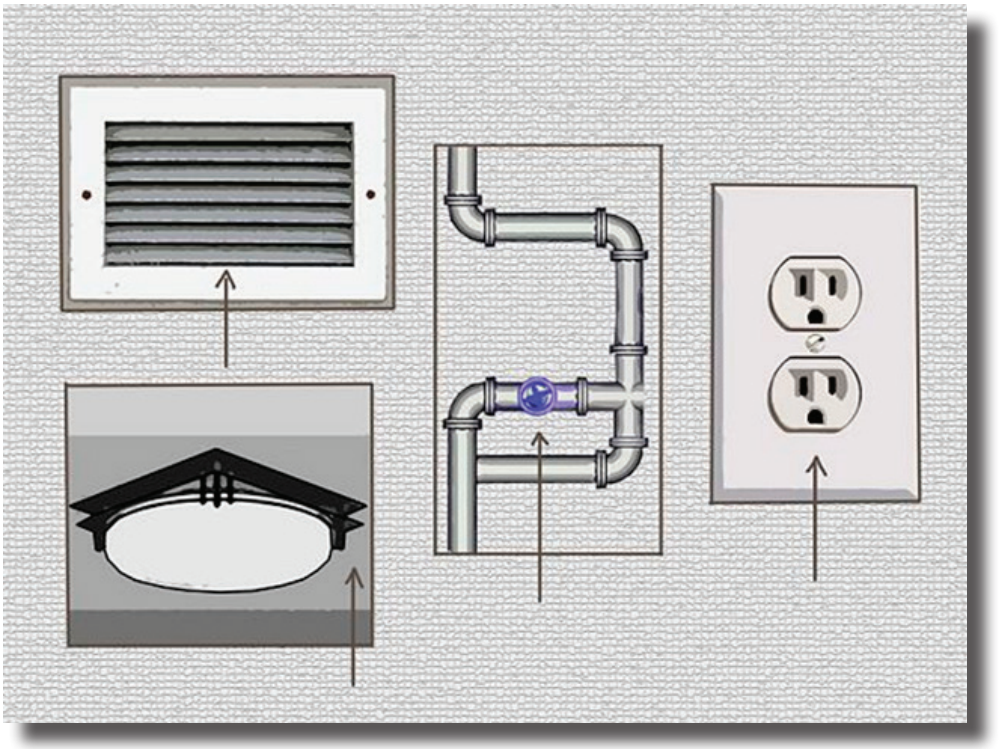
- Short exposures to secondhand smoke can cause blood platelets to become stickier, damage the lining of blood vessels, decrease coronary flow velocity reserves, and reduce heart rate variability, potentially increasing the risk of a heart attack.
- Secondhand smoke contains many chemicals that can quickly irritate and damage the lining of the airways. Even brief exposure can result in upper airway changes in healthy persons and can lead to more frequent asthma attacks in children who have asthma.
- Conventional air cleaning systems can remove large particles, but not the smaller particles or gases found in secondhand smoke.
- Routine operation of a heating, ventilating, and air-conditioning system can distribute secondhand smoke throughout a building.
- The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), the preeminent U.S. body on ventilation issues, has concluded that ventilation technology cannot be relied on to control health risks from secondhand smoke exposure.

Research says there is no safe level of exposure to SHS; even low levels of SHS can cause illness or even death. Research also says that, depending on the age and design of a building, up to 65 percent of the air in a unit can come from other units in the building through tiny cracks and gaps, which exposes people to SHS.[12] Air filters and air purifiers will take out some particles from the air; however, they can't remove the particles that settle on walls, carpets, etc.

Secondhand smoke can't be controlled by ventilation and air purifiers. In 2010, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, released a statement on secondhand smoke, saying that ventilation technology can't be relied on to control health risks from SHS exposure. The paper ends by saying, "At present, the only means of effectively eliminating health risk associated with indoor exposure of SHS is to ban smoking activity." The document also encourages completely doing away with smoking in indoor environments as the best way to cut Environmental Tobacco Smoke (ETS) exposure.[13]

"Our residents deserve to breathe clean air. It's as simple as that. If you live in an apartment, what you do has an effect on others. A smoke-free community protects our residents from the harmful effects of secondhand smoke and allows everyone to enjoy the beautiful outdoor spaces without being subjected to a major health risk."

—Jenifer Ewoniuk, Vice President, COO, Cowboy Properties



Secondhand smoke can easily travel to other units in your complex through the ventilation system, light fixtures, pipes, or electrical outlets. As such, there really isn't such a thing as a non-smoking apartment that is nearby a smoking apartment.

ADVANTAGES OF A SMOKE-FREE POLICY

Smoke-free properties are in high demand and can provide significant cost savings and reduce risk of damage for your property

MARKET DEMAND

In Utah, 91.2 percent of Utahns don't smoke.[14] As people have become more aware of the dangers of secondhand smoke, more and more look for housing where smoking is prohibited. Currently, 93 percent of Utah households don't allow smoking in the home.[14] Unfortunately, people who live in multi-unit housing have no control over SHS caused by neighbors. National surveys show that residents of multi-unit housing are in support of a smoke-free policy. There is high demand for smoke-free housing. In fact, national surveys also show that even people who smoke prefer smoke-free housing.

People who live in Utah are used to being protected from SHS. State law prohibits people from smoking in workplaces, restaurants, clubs, and other public places. Utahns expect clean air in their apartment or condominium and have the right to live in a safe and healthy environment. A non-smoking policy can increase interest in your property from renters.

As a property manager, you might fear that making your property smoke-free could affect business negatively. Not so! Research shows that:

- A number of public opinion surveys have found that a significant majority of tenants support smoke-free apartment policies.[15,16,17]
- Several national surveys demonstrate that as many as 78 percent of tenants, including smokers, would choose to live in a smoke-free complex.
- Secondhand smoke complaints and requests for unit transfers drop following the implementation of a smoke-free policy.
- Nationwide, less than 21 percent of the general population smoke[18], so it makes sense that a vast majority of tenants want to live in a smoke-free environment.

LOWER CLEANING COSTS

Smoking can cause serious damage to apartment units. The smoke leaves stains on walls, curtains, cabinets, blinds, appliances, and fixtures. Cigarettes can leave burn damage on tiles, carpets, curtains, countertops, and bathtubs. The smell of smoke in carpets, curtains, and walls can remain for years. On average, it costs property managers or owners two to seven times more money to clean a unit that has been smoked in.[19]

Since many residents know about the dangers of being exposed to SHS, some may even decide not to rent an apartment if it has been smoked in. Rather than risk exposing their loved ones to SHS, they might look for somewhere else to live.

Maintenance costs increase when units are vacated by a smoker. Costs include, but are not limited to, additional paint to cover smoke stains, replacing blinds, or replacing carpets that have been damaged by cigarettes. The cost to rehabilitate a unit where smoking is prohibited versus a unit where smoking is allowed is shown below.

Cleaning costs when a tenant vacates your property:
smoking vs. non-smoking apartments

	Nonsmoking	Light Smoking	Heavy Smoking
General Cleaning	$240	$500	$720
Paint	$170	$225	$480
Flooring	$50	$950	$1,425
Appliances	$60	$75	$490
Bathroom	$40	$60	$400
Total	$560	$1,810	$3,515

*Data reflects surveys from housing authorities and subsidized housing facilities in New England.[19]

> "We decided to implement a smoke-free policy on our properties in order to eliminate the health risks of secondhand smoke and also to cut down on smoke damage in our apartment units. We grandfathered the policy in over a 12-month period so that anyone that was in a current lease had the opportunity to decide to move if they didn't want to comply with the no-smoking policy. We actually had very little turnover due to implementing this policy and it has virtually had no effect on renting apartment units. It also has had a significant impact on turnover costs."
>
> *—Jenifer Ewoniuk, Vice President, COO, Cowboy Properties*

Getting Real about Cleaning Costs

- In today's tough economy, most companies are struggling to reduce routine turnover costs without tacking on an additional $1,000 to $3,000 for apartments with smoke damage.[20]
- Kennedy Restoration, a restoration maintenance company in Portland, Oregon, recently developed a cost estimate for cleaning a smoker's apartment. It identified the need to replace carpeting and vinyl appliances, as well as the possible replacement of other flooring and sub-flooring, lighting fixtures, cabinets, and ceiling fans, and the use of special sealants to control odors before painting. Kennedy Restoration estimated the cost of properly cleaning a two-bedroom, two-bath, smoked-in apartment at approximately $15,000.[21]

> "In our experience, it costs Nampa Housing Authority nearly double the amount of money in time and materials to make a smoker's unit ready for lease versus that of a nonsmoker."
>
> *—Andy Rodriguez, Executive Director, Nampa Housing Authority*

The tar in cigarette smoke stains walls—this requires additional restoration and extensive cleaning.

LOWER RISK OF FIRE DAMAGE

Smoking materials (i.e., cigarettes, cigars, etc.) are the leading cause of home fire deaths in the United States. In 2010, U.S. fire departments responded to an estimated 90,800 smoking-material fires. These fires caused 610 civilian deaths, 1,570 civilian injuries, and $663 million in direct property damage.[22] One out of four victims of smoking-material fires is not the smoker whose cigarette started the fire.[22]

Smoking should not be allowed in a home where oxygen is used. Pure oxygen is highly flammable, even more than normal air, and striking a match or holding a lit cigarette anywhere near it can start a fire. The risk of dying in a home structure by smoking materials rises with age.[22] Smoking is by far the leading cause of burns, reported fires, deaths, and injuries involving home medical oxygen.[23] Two out of five (39 percent) fatal home smoking-material fire victims were age 65 and older, although they make up just 12 percent of the population.[22]

Smoking materials are the number one cause of home and apartment fires in the U.S.

LEGAL ISSUES

Property owners and managers have the right to put rules in place to protect their property and the health of their residents

It is legal for managers and landlords to make rental units smoke-free.

- Smokers are not considered a protected group under anti-discrimination laws.
- Smoking is not considered a "constitutional right."[24] So, building managers and owners can ban smoking in the building, just as they can decide not to allow pets.
- In federally subsidized housing, you can't refuse to rent to smokers, but you can keep them from smoking in the unit. The policy is allowed if it targets the behavior, not the smoker. That means that smokers can rent, but can't smoke in the building.

AMERICANS WITH DISABILITIES ACT AND FAIR HOUSING ACT

The Americans with Disabilities Act (ADA) allows smoke-free policies. Since smoking is not considered a disability, smokers are not protected under the Fair Housing Act (FHA). Residents with health conditions (such as emphysema, heart conditions, asthma, and COPD) who would be affected by secondhand smoke could be considered as having a disability under the law.

Under the FHA, managers and owners may have to provide a reasonable accommodation to a resident whose disability is made worse by exposure to SHS. Possible accommodations could include adopting a smoke-free policy, repairing air flow systems to keep or cut back on secondhand smoke infiltration, or adding separate ventilation or heating systems.

UTAH LAW

The Second Hand Smoke Amendments (SHSA) were passed in 1997 by the Utah State Legislature. These amendments apply to any tobacco smoke that drifts into any residential unit a person rents, leases, or owns, from another residential or commercial unit, and is a nuisance under the law §78B-6-1101-(3).

The Second Hand Smoke Amendments:

- Give authority for apartment rental contracts to include prohibitions on smoking tobacco products in the residential units, on the premises, or both §57-22-5-1(h).
- Provide that residents of apartments and condominiums may seek injunctive relief and/or damages if exposed to nuisance tobacco smoke §78B-6-1101(3).
- Give authority to condominium associations to restrict smoking tobacco products in units, common areas, and yard space §57-8-16-7(a)(b).
- Exempt rental units for vacation or available for 30 days or fewer at a time, from the nuisance tobacco provisions §78B-6-1101(4)(a)(5).
- Provide authority for an apartment renter to file a nuisance action under §78B-6-1101-(2) even if the renter has signed away his rights to file a nuisance.

The Utah Indoor Clean Air Act:
The Utah Indoor Clean Air Act (UICAA) is designed to protect Utahns and visitors from exposure to the harmful effects of secondhand smoke. In general, "Smoking is prohibited in all enclosed indoor places of public access and publicly owned buildings and offices…" §UC 26-38-3(1). Outside smoking designated areas are not allowed within 25 feet of building entrances, exits, air intakes, or windows. Ashtrays closer than 25 feet of the building are required to have a sign stating "No Smoking," "For extinguishing cigarettes only—No Smoking," or similar, and a reference to the 25-foot probibition §R 392-510-9(1), (2). In Utah, all laws regarding secondhand smoke produced by cigarettes also apply to the emissions caused by electronic cigarettes, e-cigarettes, or personal vaporizers.

PUBLIC HOUSING—HUD AND SECTION 8

On May 29, 2012, the U.S. Department of Housing and Urban Development (HUD) reissued PIH Notice 2009-21 titled "Non-Smoking Policies in Public Housing." The notice stated that HUD "strongly encourages Public Housing Authorities (PHAs) to implement non-smoking policies in some or all of their public housing units." The notice encourages PHAs to adopt smoke-free policies in their buildings, including in common areas and in individual units.[25] The notice explains the health problems associated with secondhand smoke and also points out the additional costs to PHAs of cleaning units where smokers have lived. This statement is likely to encourage more PHAs to adopt smoke-free policies.

In September 2010, HUD's Multi-Family Housing Section issued a notice titled, "Optional Smoke-Free Housing Policy Implementation," to encourage owners and management agents (O/As) of HUD Multi-Family Housing rental assistance programs to put smoke-free policies in some or all of their properties.[26] The notice explains the requirements for creating and adopting smoke-free housing policies and applies only to O/As who choose to establish such policies.

These notices are significant developments in clarifying the right of local PHAs, as well as providers of Section 8, senior, and disabled affordable housing to adopt smoke-free policies for the buildings under their control. HUD's support for smoke-free housing is key because many individuals and families who live in buildings receiving HUD funding are among the most vulnerable to the serious health impacts of secondhand smoke exposure.

LEGAL MATERIALS

Resources that can provide specific legal information as you prepare to go smoke-free

The Smoke-Free Environmental Law Project (SFELP) is a website that compiles extensive materials on secondhand smoke in apartments and condominiums for all parties involved: tenants, owners, and managers. The website includes separate sections for apartments and condominiums.
www.tcsg.org/sfelp/home.htm

- Analysis of the Authority of Housing Authorities and Section 8 Multi-Unit Housing Owners to Adopt Smoke-Free Policies in Their Residential Units, Schoenmarklin, Susan, May 2005, for the Smoke-Free Law Project.
  www.tcsg.org/sfelp/public_housing24E577.pdf

The Tobacco Control Legal Consortium (TCLC) is a national network supporting tobacco control policy change by giving advocates better access to legal expertise. TCLC has developed summaries of various issues regarding secondhand smoke in multi-unit housing. Individuals with questions regarding application of the law to specific facts should consult a qualified legal advisor familiar with laws in Utah.

- Secondhand Smoke Seepage into Multi-Unit Affordable Housing. April, 2010.
  » The synopsis discusses smoke-free policies in public and other affordable housing. It also analyzes legal issues, HUD policies, and how to adopt smoke-free policies.
  www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-secondhand-2010_0.pdf

- Infiltration of Secondhand Smoke into Condominiums, Apartments and Other Multi-Unit Dwellings. October, 2009.
  » A synopsis summarizing the legal remedies for landlords, condominium associations and tenants of multi-unit dwellings concerned about secondhand smoke infiltration.
  www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2009_0.pdf

- There is No Constitutional Right to Smoke, March, 2008.
  » A synopsis explaining why smoking is not a constitutionally protected right.
  www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-constitution-2005.pdf

- The Americans with Disabilities Act: Effective Legal Protections Against Secondhand Smoke Exposure. April, 2004.
  - » A synopsis of the law describing when exposure to secondhand smoke qualifies as a disability under the ADA, the scope and constitutionality of Titles I and II of the ADA, as well as remedies under the ADA for smoking-related discrimination.
    www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-disabilities-2004.pdf

- Legal Options for Condominium Owners Exposed to Secondhand Smoke. December, 2006.
  - » A synopsis of legal options for condominiums.
    www.publichealthlawcenter.org/sites/default/files/resources/tclc-syn-condos-2006_0.pdf

"Designating a building smoke-free is only the first step in the long process of helping it become a truly smoke-free environment. Owners, managers and residents must work together in a cooperative effort to strengthen partnerships, develop the needed tools, and continue steps along the path toward effective smoke-free buildings.

–Sandy Aldrich, Occupancy Director, Danville Development Corporation

AFFORDABLE AND PUBLIC HOUSING

It is legal for owners and managers of subsidized housing to implement a smoke-free policy

In May 2012, an office within the Department of Housing and Urban Development (HUD) reissued a memorandum that "strongly encouraged Public Housing Authorities to implement no-smoking policies in some or all of their public housing units." In September 2010, HUD issued a notice titled, "Optional Smoke-Free Housing Policy Implementation to encourage owners and management participating in one of the Multi-Family Housing rental assistance programs to implement smoke-free housing policies in some or all of the properties they own or manage."

There are two options when adopting a smoke-free policy in subsidized housing.

1) Include a smoke-free clause to the house rules. If the smoke-free policy meets the standard HUD criteria for house rules, the policy change does not require HUD approval.

2) Make a smoke-free policy a condition of the lease. Those using HUD's model lease are required to seek HUD approval before any lease changes can be made.

HUD requires at least 30 days (written) notice of a lease change or adoption of a house rule. A lease may not be changed without the tenant's consent before the date of lease renewal. The Smoke-Free Environments Law Project of Michigan recommends that landlords provide a period of 60-90 days of reasonable notice to all tenants before any lease changes are made.

As of January 2011, at least 230 local housing authorities nationally have adopted no-smoking policies for some or all of their apartment buildings. About 214 were adopted since the beginning of January 2005—an average of about 2.9 per month. That constitutes a 1,300 percent increase in the number of housing authorities with no-smoking policies in 72 months. In Utah, three of 19 housing authorities have adopted policies in some or all of their communities.

STEPS TO GO SMOKE-FREE

If you're ready to make your property a healthier place for all to live, here are your first steps

When your rental community decides to develop a policy to prohibit or restrict smoking, take time to come up with a plan to help put the policy in place. Below are some suggestions to implement a smoke-free policy in new and existing buildings.

FOR NEW BUILDINGS

If it's a new community, it should be fairly easy to implement a smoke-free policy. Your residents have no pre-existing expectations. Simply follow these steps to create a healthy and safe policy for your new property:

- Include smoke-free provisions in your lease/rental agreements. Putting smoke-free language in your lease or declaration makes it enforceable. Consult your legal advisor about the terms and language of rental agreements or declarations. (See "Model Lease Addendum" in the Policy Adoption Materials section.)
- Post "Smoke-Free Area" or "No Smoking" signs. This will make enforcement of the smoke-free policy in common areas a lot easier. (See "Smoke-Free Housing Signage" in the Policy Adoption Materials section for ideas.)
- Educate employees on how to answer questions regarding the policy. The more your employees know about the law and policy, the easier it will be to deal with any problems that may come up.
- Advertise your property as smoke-free in the newspaper and real estate magazine ads. This will set you apart from other multi-unit housing complexes that allow smoking. It will also make it easier for you to deal with questions regarding the policy since potential residents will know what to expect.
- Register your community at Utah's Smoke-Free Apartment and Condominium Guide and Statewide Directory. This will help people looking for smoke-free housing find you.

FOR EXISTING BUILDINGS

If you would like to implement a new smoke-free policy in an existing building, consider these tips:

- Make a plan. Here are four ways to implement smoke-free policies in your property:
  1) Phase In: Once a smoker moves out, the unit becomes smoke-free. However, phasing in a policy delays implementation until all smokers are no longer residing in your community. An alternative would be to grandfather them for a certain amount of time, such as three or six months. This gives your residents who smoke time to get used to the policy.
  2) Smoke-Free Date: Pick a date when your building(s) will become smoke-free. Be sure to communicate this to tenants.

3) Designated Smoking Areas: Designate specific areas as smoke-free. Select the area with the fewest smokers to become a non-smoking section. If there is more than one building, perhaps one building could be designated as smoke-free.
4) Smoke-free Common Use Areas: Don't allow smoking in common-use areas. Areas everyone uses, such as lobbies, hallways, balconies, laundry facilities, playgrounds, clubhouses, and swimming pool and spa areas can be made smoke-free.

- Talk with residents about a smoke-free policy. Hold a meeting that is open to all residents. It's safe to expect that not everyone will like the idea, but focus on the dangers of secondhand smoke and the fact that secondhand smoke drifts from unit to unit.
- You may want to survey your tenants to find out how much support you have for the policy. Surveys can also help you assess what buildings can easily be made smoke-free, and then try to move nonsmoking residents to those buildings. Offer an incentive to encourage residents to move. (See "Sample Tenant Survey" in the Policy Adoption Materials section.)
- Let all residents know about the policy change in a letter. Ask renters to sign a copy saying they intend to comply with the new policy. Leases should be updated with the new smoke-free language, which becomes effective upon lease renewal. Putting smoke-free language in your lease makes it legally enforceable. You should consult your legal advisor about the terms and language of rental agreements. (See "Sample Resident Notification Letter" in the Policy Adoption Materials section.)
- Post "Smoke-Free Area" or "No Smoking" signs in designated areas. This will make enforcement of the smoke-free policy in common areas a lot easier. (See "Smoke-Free Housing Signage" in the Policy Adoption Materials section.)
- Remove ashtrays and move receptacles for smoking materials at least 25 feet away (or farther if your policy requires it) from entrances. Put up signs indicating that smoking is not allowed. This will encourage residents and guests to smoke away from common areas and other smoke-free areas.
- Put fliers in mailboxes and in common areas. If there is a resident newsletter, include information about the new policy to notify residents. Let them know about resources available to help smokers quit (e.g., Utah Tobacco Quit Line: 1.800.QUIT.NOW or www.waytoquit.org). For more information on quitting resources, see the Policy Adoption Materials section.
- Educate employees on how to answer questions regarding policy. The more your employees know about the law and policy, the easier it will be to deal with any problems that may come up.
- Promote your smoke-free community. Advertise your property as smoke-free in the newspaper and real estate magazine ads. Register your apartment or condominium complex on Utah's Smoke-Free Apartment and Condominium Guide and Statewide Directory. This will help people who are looking for smoke-free housing to find you.

POLICY ADOPTION MATERIALS

All of the materials needed to make the transition to a smoke-free property smooth and easy

You will find these materials on the following pages:

- Sample Tenant Survey with Letter
- Sample Tenant Survey
- Sample Resident Notification Letter—Option 1
- Sample Resident Notification Letter—Option 2
- Model Smoke-Free Lease Addendum
- Model Lease Provisions
- Smoke-Free Policy Adoption Checklist

SAMPLE TENANT SURVEY WITH LETTER

Date _____

Dear Residents:

We are pleased that you have chosen to reside at _____. We have been studying the changes that are occurring in the management of apartments. Many owners are deciding to regulate the use of tobacco products within their properties. One reason for this is because secondhand smoke is a health hazard. The 2006 U.S. Surgeon General's Report stated that there is no safe level of exposure to secondhand smoke.

In addition, smoking materials are the leading cause of fire deaths. Cigarettes, cigars, and pipes are twice as likely to be the cause of fires in apartment buildings, compared to one- and two-family homes and mobile homes.

To ensure the enjoyment and safety of all persons living here, we are considering designating some or all of our units as smoke-free. But, we would also like to hear from you. Please let us know what you think by filling out the short survey on the following page.

Those who complete the survey and return it to the office by _____ will be entered in a drawing for a $50 gift certificate.

Sincerely,

SAMPLE TENANT SURVEY WITH LETTER

1. How many occupants in your unit smoke? _____

2. Do you allow guests to smoke in your unit? ☐ YES ☐ NO

3. Have you been bothered by secondhand smoke drifting into your apartment? ☐ YES ☐NO
   If yes, can you identify the source of the smoke? _____

4. What policies would you support? (check all that apply)

   ☐ Smoking prohibited in ALL residential units
   ☐ Smoking prohibited in SOME residential units (designate smoking/nonsmoking buildings as is done with hotel rooms)
   ☐ Smoking prohibited within 25 feet of building entrances/stairwells
   ☐ Smoking prohibited on balconies/patios
   ☐ Smoking prohibited at outdoor common areas (pool, children's play area, tennis/volleyball courts, etc.)
   ☐ Smoking prohibited entirely on the premises
   ☐ No restrictions on smoking

5. If certain buildings were designated as NON-smoking, would you be interested in moving into a smoke-free building? ☐ YES ☐ NO ☐ POSSIBLY

6. If certain buildings were designated as SMOKING, would you be interested in moving into a smoking-permitted building? ☐ YES ☐ NO ☐ POSSIBLY

Comments: _____

_____

_____

_____

Name (optional) _____

Address (optional) _____

TENANT SURVEY GIFT CERTIFICATE DRAWING
Thank you for filling out our survey. To be entered in the drawing, please fill out the information below, detach from the survey, and turn in to the collection box or office drop box.

Name: _____ Phone: _____

SAMPLE TENANT SURVEY

1. What is your age? _____

2. What is your gender? ☐ Female ☐ Male ☐ Other

3. Are you a:
☐ Current tobacco user
☐ Former tobacco user
☐ Non-tobacco user

Do you currently use:
☐ Cigarettes
☐ Chewing tobacco
☐ Cigars or pipes

4. Does smoke from other people's cigarettes bother you?

☐ A lot ☐ Somewhat ☐ A little ☐ Not at all

5. Do you think that breathing smoke from other people's cigarettes is:

☐ Very harmful to your health
☐ Somewhat harmful to your health
☐ Not very harmful to your health
☐ Not at all harmful to your health

6. Does anyone you live with smoke? ☐ Yes ☐ No

7. Which statement best describes the rules about smoking inside your apartment?

☐ Smoking is not allowed anywhere inside my apartment
☐ Smoking is allowed in some places or at some times
☐ Smoking is allowed everywhere inside my apartment
☐ There are no rules about smoking inside my apartment

8. Please indicate what kind of tobacco policies you would support at your apartment/ condominium complex:

(CHECK ONLY ONE ANSWER FOR EACH LOCATION)

INDOOR COMMON AREAS	OUTDOOR COMMON AREAS	RESIDENTIAL UNITS
☐ Ban smoking	☐ Ban smoking	☐ Ban smoking in all units
☐ Limit smoking to a designated area	☐ Limit smoking to a designated area	☐ Ban smoking in certain buildings
☐ Have no restrictions on smoking	☐ Have no restrictions on smoking	☐ Have no restrictions on smoking
☐ Other	☐ Other	☐ Other

Comments:

SAMPLE RESIDENT NOTIFICATION LETTER—OPTION 1

Date

Dear Resident:

This letter is to inform you of a policy that is being implemented with regard to smoking on the property.

As of (date of your choice*), this apartment complex will be smoke-free. This means that there will be no smoking in this building or within 25 feet of any doors, windows, or balconies. This policy includes residents as well as guests, maintenance personnel, and staff. **

This policy was passed to protect the health of our residents, staff, and guests. Secondhand smoke is a Class A carcinogen, which means it is a cancer-causing agent and there is no safe exposure level. Secondhand smoke can travel through doorways, windows, wall joints, plumbing spaces, and even light fixtures, so secondhand smoke from one unit can adversely affect the health of residents in other units.

If you or family members are interested in more information, please visit the following website, which can explain the benefits of living in a smoke-free environment in greater detail: www.tobaccofreeutah.org. This website will also link you to a number of resources that can help if you are thinking about quitting smoking.

Please feel free to contact (name of landlord or complex manager and phone number) if you have any questions. We will be happy to assist you in any way possible in making this a smooth transition.

Sincerely,

Landlord

*Some landlords choose to put the policy in place at the time of annual signing of new leases; others choose a date and give the tenants notice (for example, 60 days notice is required with HUD tenants), and some create a grandfather clause for existing tenants.

**Your specific policy may vary. Cite your policy details here.

SAMPLE RESIDENT NOTIFICATION LETTER—OPTION 2

Dear Resident:

(Property name) has decided to go smoke-free in order to provide a healthier environment for its residents. The harmful effects of secondhand smoke (SHS) and the fire danger caused by indoor smoking are simply too great to ignore. Effective immediately, smoking is prohibited in all (indoor) common areas (such as entrances, hallways, exercise areas, and laundry rooms). A smoke-free policy for individual units will be phased in as leases are renewed.

Secondhand smoke is a serious health hazard. It is the third leading cause of preventable death in the United States, causing approximately 53,000 deaths each year. The 2006 Report of the U.S. Surgeon General states that there is no safe level of exposure to secondhand smoke.

Secondhand smoke is particularly dangerous to children and has been linked to Sudden Infant Death Syndrome (SIDS). In addition, approximately 900 people in the U.S. die each year from fires caused by smoldering cigarettes.

This is an issue for the entire complex because cigarette smoke travels from unit to unit. Secondhand smoke can seep through outlets in walls and spread through air conditioning and heating systems. The remodeling required to prevent SHS from transferring to another residence can be costly, yet is not effective in preventing SHS drift. The only effective method to stop the spread of SHS is a smoke-free policy.

Smoking will not be prohibited in individual units until leases come up for renewal. However, all leases from this point forward will include a smoke-free addendum. (In addition, existing lease terms may prohibit smoking in individual units if the resulting SHS is causing irritation to neighbors.)

Please consider this letter as notice about the changes that will be taking place upon your next lease renewal. We hope this new policy will help everyone breathe easier.

Please sign this letter and return to management within one week. If you have any questions or concerns, please contact management.

Regards,

Property Manager/Owner

I understand and agree to abide by the policies contained in this letter.

Name: _____ Date: _____

Signature:_____

MODEL SMOKE-FREE LEASE ADDENDUM

Below you will find a Model Smoke-Free Lease Addendum, which can be considered for addition to existing leases. Before utilizing this model language, property managers and/or owners should consult with their own legal counsel.

Resident and all members of Resident's family or household are parties to a written lease with Property Manager/Owner (the Lease). This Addendum states the following additional terms, conditions, and rules which are hereby incorporated into the lease. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease.

1. **Purpose of No-Smoking Policy.** The parties desire to mitigate (i) the irritation and known health risks from secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; and (iii) the increased risk of fire from smoking.

2 **Definition of Smoking.** The term "smoking" means the possession of any lighted tobacco product in any form (from Utah's Indoor Clean Air Act). The definition of smoking could be more specific, for example: The term "smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or other tobacco product in any manner or in any form. In Utah, electronic cigarettes, e-cigarettes and personal vaporizers also fall under this category, and all of the same restrictions apply.

3. **Smoke-Free Complex.** Resident agrees and acknowledges that the premises to be occupied by Resident and members of Resident's household have been designated as a smoke-free living environment. Resident and members of Resident's household shall not smoke anywhere in the unit rented by Resident, the building where the Resident's dwelling is located, or in any of the common areas or adjoining grounds of such building or other parts of the rental community, nor shall Resident permit any guests or visitors under the control of Resident to do so. *[If you provide an outdoor smoking area, specify where it is here.]*

4. **Resident to Promote No-Smoking Policy and to Alert Property Manager/Owner of Violations.** Resident shall inform Resident's guests of the no-smoking policy. Further, Resident shall promptly give Property Manager/Owner a written statement of any incident where secondhand smoke is migrating into the Resident's unit from sources outside of the Resident's apartment unit.

5. **Property Manager/Owner to Promote No-Smoking Policy.** Property Manager/Owner shall post "No Smoking" and/or "Smoke-Free" signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the apartment complex.

6. **Property Manager/Owner is Not a Guarantor of Smoke-Free Environment.** Resident acknowledges that Property Manager/Owner's adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not make the Property Manager/Owner responsible for smoke in any of its Resident's units or the common areas. However, Property Manager/Owner shall take reasonable steps to enforce the smoke-free terms of its leases to make the complex smoke-free. Property Manager/Owner is not required to take steps in response to smoking unless Property Manager/Owner knows of said smoking or has been given written notice of said smoking.

7. **Other Residents are Third-Party Beneficiaries of Resident's Agreement.** Resident agrees that the other Residents at the complex are the third-party beneficiaries of Resident's smoke-free addendum agreements with Property Manager/Owner, meaning that Resident's commitments in this Addendum are made to the other Residents as well as to the Property Manager/Owner. A Resident may sue another Resident for an injunction to prohibit smoking or for damages, but does not have the right to evict another Resident. Any suit between Residents herein shall not create a presumption that the Property Manager/Owner breached this Addendum.

8. **Effect of Breach and Right to Terminate Lease.** A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights in the Lease. A material breach of this Addendum by the Resident shall be a material breach of the lease and grounds for immediate termination of the Lease by the Property Manager/Owner.

9. **Disclaimer by Property Manager/Owner.** Resident acknowledges that Property Manager/Owner adoption of a smoke-free living environment, and the efforts to designate the rental complex as smoke-free, do not in any way change the standard of care that the Property Manager/Owner would have to a Resident household to render buildings and premises designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Property Manager/Owner specifically disclaims any implied or express warranties that the building, common areas, or Resident's premises will have any higher or improved air quality standards than any other rental property. Property Manager/Owner cannot and does not warranty or promise that the rental premises or common areas will be free from secondhand smoke. Resident acknowledges that Property Manager/Owner's ability to police, monitor, or enforce the agreements of this Addendum is dependent in significant part on voluntary compliance by Resident and Resident's guests. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Property Manager/Owner does not assume any higher duty of care to enforce this Addendum than any other Property Manager/Owner obligation under the Lease.

Resident_____ Date_____

Property Manager/Owner_____ Date_____

Optional Paragraph for existing rental communities that adopt no-smoking policies:

10. **Effect on Current Residents.** Resident acknowledges that current residents residing in the complex under a prior lease will not be immediately subject to the smoke-free policy. As current residents move out, or enter into new leases, the smoke-free policy will become effective for their unit or new lease.

MODEL LEASE PROVISIONS

The following language can be used to implement a smoke-free policy in multi-unit housing. In apartment complexes, the provisions can be added to the lease. This is most easily done gradually as new individuals apply to become residents. For condominiums, the language can be added to the Conditions, Covenants, and Restrictions (CC&Rs) and implemented immediately or at a specified future date.

Include in the "Definitions" section of the lease or CC&Rs:

SMOKING: The term "smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, or other tobacco product in any manner or in any form, including electronic cigarettes.

Include in the restrictions section of the lease or CC&Rs:

SMOKING: Due to the increased risk of fire and the known adverse health effects of secondhand smoke, smoking is prohibited in any area of the property, both private and common, whether enclosed or outdoors. This policy applies to all owners, residents, guests, employees, and servicepersons. In Utah, this policy is also applicable to electronic cigarettes.

SMOKE-FREE POLICY ADOPTION CHECKLIST

A smoke-free policy protects the health of your residents and decreases maintenance costs required after a smoker has vacated the apartment.

This checklist helps you to adopt a policy easily and efficiently.

☐ Check out the Utah Statewide Smoke-Free Housing Directory website at www.tobaccofreeutah.org/muh-intro.html for sample policies, surveys, notification of policy, signs, and more.

☐ Find out how your residents feel about adopting a smoke-free policy. Conduct a survey to see their reactions and level of interest.

☐ Allow tenants to respond, in person or in writing, to the announcement of the policy change. Hold a meeting for residents to attend and share their opinions and concerns about the policy.

☐ Send a letter to residents explaining your intent to go smoke-free. In the letter, explain what the policy will be, results of violating the policy, your reasons for adoption, and the effective date of the policy.

☐ Create policy language to add to your lease or house rules. Remember, there is no one-size-fits-all policy, so choose what works best for your community and residents.

☐ Provide information on cessation resources in your area to residents who may be interested in quitting.

☐ Add a smoke-free policy to your house rules (this should occur no sooner than 30 days following the written announcement; 90 days notice is recommended).
- For private properties, add to the lease of all new and renewing residents.
- For public housing, add the smoke-free clause to the house rules or lease addendum and have each new or renewing resident sign the lease in acknowledgement of the policy.

☐ Post proper signage to ensure your residents and their guests are aware of the smoke-free policy. Call us for FREE signage at 801-538-6754.

☐ Add your community to the Utah Statewide Smoke-Free Housing Directory at www.tobaccofreeutah.org/tobfreehousing.php and attract residents looking for smoke-free apartments.
- Call the Utah Department of Health at 801-538-6754 and our staff will add your smoke-free listing to the directory for you. Your application may also be faxed to 801-538-6540.

POLICY IMPLEMENTATION MATERIALS

Materials and tips to help keep your property smoke-free once the policy is in place

- Utah Statewide Smoke-Free Housing Directory Application
- Smoke-Free Housing Signage
- Resources for Helping Residents Quit Smoking
- Making Sure the Policy Works
- Tips for Enforcement

UTAH'S STATEWIDE SMOKE-FREE HOUSING DIRECTORY APPLICATION

Name of Community _____

Address _____

City, State, and ZIP Code _____

Contact Name _____

Email _____

Phone _____ Fax _____

Website Address _____

Public Housing ☐ Yes ☐ No If yes, describe _____

Total Number of Units _____

Number of Units Smoke-free _____

Number of Buildings Smoke-free _____

Restrictions on Smoking on Premises ☐ Yes ☐ No

Details (Exact policy language used and any additional information on the smoke-free policy):

Mail or fax completed form to:

Environmental Sanitation Program
Utah Dept. of Health
P.O. Box 142104
Salt Lake City, Utah 84114-2104

Fax: 801-538-6540

SMOKE-FREE HOUSING SIGNAGE

Signs are an easy and effective way to remind residents about the policy and inform guests about the non-smoking policy. Make sure to place signs on your property indicating which areas are covered by the smoke-free policy. If you designate an outdoor smoking area, make sure it is clearly marked and has appropriate tobacco litter receptacles.

Examples of signs that are designed for use in multi-unit housing are shown below. To order signs, please contact the Utah Department of Health at 801-538-6754 or visit www.tobaccofreeutah.org/muh-signs.html

A variety of signs are available for free from the Utah Department of Health to help make the transition to a smoke-free complex easier.

RESOURCES FOR HELPING RESIDENTS QUIT SMOKING

UTAH TOBACCO QUIT LINE
English: 1.800.QUIT.NOW
Spanish: 1.855.DEJELO.YA (1.855.335.3569)
TTY: 1-877-229-2182
Monday–Sunday, 6:00 AM–11:00 PM

Research shows that telephone counseling is one of the most effective ways to help people quit smoking or chewing tobacco. Telephone-based support is more likely to be used than other types of quitting services. Unlike in-person counseling, there is no need for transportation or childcare since callers can access services from wherever there is a telephone. Scheduling conflicts are reduced, since the service can be used nearly all day, every day, including weekends. With the Utah Tobacco Quit Line, critical assistance is just a phone call away. Quit Line services are available in English and Spanish. Translation is available into more than one hundred other languages. All services are free and completely confidential. When a person calls the Utah Tobacco Quit Line, he/she can:

- Be connected with a trained coach who will help them develop a personalized quit plan and guide them through the quitting process.
- Receive up to five individually tailored sessions with a coach.
- Get a printed quitting guide that can help them in their quit.
- Receive information about how to help a friend or family member to quit.
- Discuss options for medications; including free Nicotine Replacement Therapy for eligible callers (youth are not eligible for NRT).

WAY TO QUIT
www.waytoquit.org

Way to Quit is Utah's one-stop shop for everything a tobacco user needs to kick the habit once and for all. From there, you can be connected to and learn more about all of the resources that Utah has to offer you: the Tobacco Quit Line, our online cessation services, the Smokefree Text program, and more. Also available is information regarding the most effective ways to go "cold turkey" and tips to get you through the inevitable cravings as you beat your habit, once and for all. It will be hard, but it can be done. Let us help you find your *Way to Quit*!

MAKING SURE THE POLICY WORKS

Let the Community Know about the New Policy

1. Educate Your Residents and Management

Educating the residents, guests, and potential tenants about the new policy will be a big part of making sure the policy actually results in change. This is especially important for enforcement reasons. Depending on how the policy is written, management or community members may be the ones who have to enforce the policy. This will happen only if the community is made aware of the changes. This could include media outreach, community events, newsletters, etc. (See the Sample Resident Notification Letter in the Policy Adoption Materials section.)

Education Checklist:

- ☐ Ask your local health department staff to hold an education meeting for your residents and board members onsite.
- ☐ Educate management and maintenance employees on how to answer questions about the smoke-free policy.
- ☐ Rewrite your lease/rental agreements to include the smoke-free rules.
- ☐ Announce the change to residents in the form of a letter or newsletter. This is a great opportunity to educate residents who may want to quit about Utah's available resources for helping people quit smoking. Post announcements that explain the new policy.

2. Post Signs

The best way to let everyone know about your smoke-free policy is by putting up signs. Long after a smoke-free policy has been adopted, updating and putting up new signs reminds residents, guests, and potential tenants that the apartment or condominium complex is smoke-free. If you haven't already, call the Utah Department of Health at 801-538-6754 to order signage.

Before you buy and put up any signs, keep the following things in mind:

- Where is smoking NOT allowed?
- How many signs do you need?
- Do your signs need to include information regarding the Utah Indoor Clean Air Act (UICAA)?
- What type of material should your sign be made of (e.g., wood, metal, plastic)?
- Does the property management logo need to be on the sign?
- Does property management need to approve the sign?
- Do you need to have the sign made in more than one language?
- How soon do the signs need to be up?

Here are some suggestions for where you might want to put the signs:

- Common areas such as walkways, hallways, etc.
- Play areas
- Pool area
- Parking garages
- Patios/Balconies/Decks
- Clubhouse
- Picnic areas

See Smoke-Free Housing Signage examples in the Policy Implementation Materials section.

3. Celebrate

Celebrate all of your hard work and success! Invite those who helped make the smoke-free policy change possible to a lunch to thank them for making the apartment or condominium complex a healthier place to live, work and play. You could also use this event as a "kick off" to educate the community about the new policy.

4. Enforcement

- Handle complaints in a timely manner.
- Enforce all policies in the same way.
- Post signs.

5. Evaluation

Develop a plan to monitor how your policy is being implemented and if it is working. Once the policy has been around for awhile, don't forget to sit down and evaluate how it is working. With this information, you can improve your policy and make changes to help it work better. A good monitoring plan can also provide proof of success to board members and other communities.

Evaluation Checklist:

- ☐ Have management and maintenance employees been informed about the new smoke-free policy and been told how to enforce it?
- ☐ How were residents, management and owners told about the new policy change?
- ☐ Were there any problems? How were they handled? Make sure you write down the dates of any problems and how they were worked out.
- ☐ Are signs in the right places? How many are up? Take pictures of the signs.
- ☐ If someone wants to quit using tobacco products, do you have resources available in the sales/rental office for letting them know where they can go for help?

6. Tell Others

Throughout the process, make sure you share your progress with other property management companies, Home Owner Associations (HOAs) and the Utah Apartment Association. It is important that those who were involved in passing the policy are told of successes. Share results with city and county officials, state agencies, law enforcement, and other organizations that are trying to pass similar policies.

ENFORCEMENT TIPS

New Buildings

1. Smoke-free residence policies usually take care of themselves, as long as all residents know about them. Because residents expect and tend to prefer a smoke-free environment, they will abide by the policy. If you get a complaint, you should act right away, just as you would if one of your residents had a maintenance problem. Enforcing the smoke-free policy is the job of the Property Manager or Owner. If you don't act on the problems quickly, other residents might start violating the policy, too.

2. Act on residents' concerns quickly. The sooner you act, the less likely it will be that more will come up. If you enforce your policy seriously, residents are less likely to test the policy.

3. Try to work out all problems in a friendly manner. In Utah, if your resident violates your no-smoking policy, you will give him/her a three-day comply or vacate notice. If the resident continues to violate the no-smoking policy, you may evict him/her.

4. Enforce all of your policies in the same way. Some courts say that an unwillingness to enforce a policy (such as a pet policy) may constitute a waiver of that policy and keep you from enforcing the policy in the future.

5. Include a provision in your lease that says waivers can only be made in writing. This will further support you in case one of your residents argues that the smoke-free policy has been waived due to a lack of prior enforcement.

Additional Tips for Existing Buildings

1. If a problem comes up that involves a resident whose lease doesn't yet contain the smoke-free clause, kindly ask the resident to smoke outside or ventilate the residence while smoking indoors. You can also take measures to insulate smoking and non-smoking residents' units in order to reduce the transfer of secondhand smoke from one unit to another.

2. If necessary, try to move residents who smoke in their unit to a separate part of the building in order to prevent secondhand smoke transfer. You may have to offer incentives in order to get those residents to agree to move. You can also let residents who are concerned about secondhand smoke know that you're working on a smoke-free policy that will help address their concerns. In the meantime, you can refer residents to the Utah Smoke-Free Apartment and Condominium Guide at www.tobaccofreeutah.org/muh-fixes.html for tips on how to keep secondhand smoke from entering their apartments.

FREQUENTLY ASKED QUESTIONS

Q: Will it cost me money if I adopt a smoke-free policy?

A: Actually, you could save money with a smoke-free policy. Smoking causes a lot of expensive property damage—from having to spend extra money to clean the apartment of a smoker, to money you might need to spend as a result of a fire. It can cost up to twice as much to fix an apartment a smoker has lived in. That includes removing tar and nicotine from walls, cabinets, blinds, and fixtures, getting the smoke smell out of drapes, carpets, and walls, and repairing any damaged, burned, or singed carpet, tiles, and drapes. It might also make your property more appealing since more and more renters are looking for non-smoking units.

Q: Is a smoke-free policy unfair to smokers?

A: A smoke-free policy is not unfair to smokers. Smoking is a choice and federal law does not consider smokers a protected class. Property owners may use the fact that smoking adds maintenance expenses and damages carpets, drapes, and paint as a reason to prohibit someone from smoking in the unit. A smoke-free policy is acceptable if you target the behavior, not the person. Smokers can rent, they just can't smoke in the unit or other smoke-free areas. Under Utah law, you have the right to tell people not to smoke in the units, building, common areas, and on the premises.

Q: Why are smoke-free apartments and condominiums legal?

A: Laws and court rulings give nonsmokers the right to be free from exposure to secondhand smoke. There are federal, state, and local laws protecting nonsmokers. In fact, federal and state laws give apartment owners the right to adopt total smoke-free policies. There are many cases involving residents who have sued because they found the secondhand smoke to be a nuisance and couldn't enjoy their homes. In federally subsidized housing, you can't refuse to rent a unit to a smoker, but you can prohibit them and even guests from smoking in the unit. Advertising "smoke-free" or "no-smoking facilities" is also legal.

Q: Can I adopt a non-smoking rule in HUD-assisted housing?

A: Yes. According to federal and state laws, HUD rules, and legal cases, all 50 states allow for a ban on smoking for new tenants who move into public or Section 8 housing. You may have to allow tenants who are already living there to continue smoking until the lease comes up for renewal. You can also adopt a no-smoking policy as part of your house rules or lease. Changes to house rules can take effect after you give long enough notice to residents. If you wish to change the model lease provided to you by HUD, you will need HUD approval. In July 2012, HUD reissued a notice that "strongly encourages Public Housing Authorities to implement non-smoking policies in some or all their public housing units." In September 2010, HUD issued an optional notice for owners/managers or agents of federally subsidized private housing encouraging the adoption of smoke-free policies in some or all of their properties.

Q: Would a smoke-free policy make an angry smoker sue me?

A: It's more likely that you will be sued by a frustrated nonsmoker than a smoker. Courts today usually favor nonsmokers over smokers in legal arguments. Many legal cases involving multi-unit housing all over the United States have been won by nonsmoking residents. Under Utah law, secondhand smoke is considered a nuisance in apartments and condominiums. For more information on the Secondhand Smoke Amendments, see the Legal Issues section, or contact your legal advisor.

Q: Is a smoke-free policy hard to enforce?

A: Once you put a policy into place, smoking will be so noticeable by other residents that you are likely to hear about it. Enforcing a policy is easier than getting in the middle of issues between smokers and nonsmokers. "No smoking" signs let everyone know what's expected. You could probably use the same enforcement policy you use for other problems that go against the rules such as loud parties, or parking in prohibited areas. If you have a "no-smoking" policy in place and don't enforce it, that could get in you in trouble, too. For more information on enforcement, see "Enforcement Tips" in the Policy Implementation Materials section.

Q: Will I lose renters if I put a smoke-free policy in place?

A: National surveys show people prefer smoke-free apartments. For example, in a 2003 survey in Washington State, two-thirds of renters preferred smoke-free housing. Seventy-five percent of Michigan renters don't smoke; yet most can't find smoke-free apartments to rent. Surveys also show that most smokers already go outside to smoke. We can show you how to go smoke-free while keeping your tenants who already smoke happy, too.

Q: Where can I advertise my smoke-free property?

A: You can advertise your property on the Utah Statewide Smoke-Free Housing Directory. This is a listing of properties that have adopted a smoke-free policy. The list is provided as a free service to property managers, owners, and renters.

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Please view the enclosed 20 minute DVD film featuring Utah residents and property managers as they describe their efforts to increase their business revenue and the health of their tenants by going smoke-free.

way to quit

SMOKE-FREE HOUSING